IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

FRIDAY, THE TENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO: 12212 of 2005

Between:

K. Suryakalavathi, W/o. K.B. Seshagiri Rao,
R/o. Flat No. 204, Yaganti Court, 2nd land, Rajendranagar, Guntur District.

..... PETITIONER

A N D

1 The Land Reforms Tribunal, Rajahmundry Cum Revenue Divisional

Officer, Rajahmundry, E.G.District.
2 The Mandal Revenue Officer, Korukonda, E.G.District.
3 K.N. Srinivas, S/o. K.B. Seshagiri Rao,
Block No. 228, Bukit Bagok(Central), No. 07-41, Singapore.
4 K. Vijaya Bhaskar, S/o. K. B. Seshagiri Rao,
Block No. 228, bukit Bagok (Central), No. 07.41, Singapore.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ order or direction more particularly one in the nature of writ of Mandamus, declaring the notice in LCC.No.568/RJY/75, dt.30.12.2004 and 12.05.2005 as illegal, arbitrary null and void and also contrary to the provisions of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act 1973 as they are not served on respondents 3 and 4 herein and for a consequential direction to the

respondents 1 and 2 herein to issue notices to the respondents 3 and 4 herein as per the provisions of the Act, 1973.

Counsel for the Petitioner: MR.M.V.SURESH

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court at the stage of admission made the following: (order follows 2nd page)

O R D E R :

This writ petition is filed seeking to declare the notice in LCC.No.568/RJY75, dated 30-12-2004 and 12-05-2005 as illegal, arbitrary, null, void and contrary to the provisions of AP Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 as they are not served on respondents 3 and 4 and for a consequential direction to the respondents 1 and 2 to issue notices to the respondents 3 and 4 as per the provisions of the Act and pass appropriate order.

The case of the petitioner is that one Mr.Rentala Narasimha Rao, who is the declarant in LCC.No.568/RJY/75 is the foster father of the petitioner, who died on 19-1-1999. The wife of late Narasimha Rao predeceased him. Mr.Narasimha Rao and his wife died issueless and they treated the petitioner as their foster daughter only. The petitioner cannot be called as the legal heir of the deceased Narasimha Rao and his wife, Sitha Mahalakshmi. In the proceedings in LCC.No.568/RJY/75, late Narasimha Rao was found to be having lands equivalent to 1.9230 Standard Holdings in excess of the ceiling area as on the notified date. The case relating to land ceiling proceedings went up to the Apex Court and the proceedings went against the deceased Narasimha Rao even before the Apex Court. The first respondent vide notice dated 20-9-2004 asked the petitioner to file a statement

showing the particulars of lands, which are proposed to be surrendered treating her as the legal heir of late Narsimha Rao, for which she sent a reply on 25-10-2004 stating that she is only the foster daughter of the declarant late Narsimha Rao. After receiving reply of the petitioner, on 30-12-2004 the first respondent gave notice under section 10 (4) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 to the effect that the lands mentioned therein have been provisionally selected for surrender, as she failed to furnish the statement as required. On 12-5-2004 the first respondent again issued notice directing the second respondent to take possession over the lands. Questioning the notices in LCC.No.568/RJY/75, dated 30-12-2004 and 12-5-2005, the present writ petition is filed.

The contention of the petitioner is that the first respondent has stated in all the notices issued to her that she is the only foster daughter of late Narasimha Rao, in which she cannot be asked to surrender lands owned by the original declarant. It is submitted that the wife of Narasimha Rao executed a registered will on 03-7-1972 much before the commencement of the AP Land Reforms {Ceiling on Agricultural Holdings} Act, 1973 (for short 'the Act') bequeathing the lands to the respondents 3 and 4 who are the children of the petitioner. Now the respondents 3 and 4 are in possession of the lands given to her by virtue of the said will and later the respondents 3 and 4 are now doing employment in Singapore. Moreover, the original declarant, late Narasimha Rao executed a registered will on 15-6-1993 devolving the properties on the respondents 3 and 4. By virtue of the aforesaid will deeds, the first respondent has to issue notice to the respondents 3 and 4. In compliance with sub-section (2) of Section 10 of the AP Land Reforms (Ceiling on

Agricultural Holdings) Act, 1973 the first respondent has to serve notice on every person, specifying extent of land, which of the person has to surrender. But in the present case, except serving notice on the petitioner, no such notice is served on the respondents 3 and 4. Now the respondents 1 and 2 are proceeding hastily to take over possession of the lands of the declarant and they are not giving any opportunity to submit objections to the proposed surrender proceedings. Though, respondents 3 and 4 are the effected parties in the light of the notices issued by the first respondent, the present writ petition is filed showing the legatees of late Narasimha Rao and his wife as respondents. The first and second respondents are trying to take over possession of the lands mentioned in the notices dated 30-12-2004 and 12-5-2005 and trying to distribute the same to others.

Heard the learned counsel for the petitioner as well as the learned Govt. Pleader for Land acquisition.

Questioning the notice in LCC.No.568/RJY/75, dt.30.12.2004 and 12.05.2005, the petitioner filed the present writ petition stating that her sons, who are respondents 3 and 4 are the successors of late Narasimha Rao. Further in para 3 of her affidavit, she mentioned that Mrs.Sitha Mahalakshmi executed a registered will much before commencement of AP Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 bequeathing the lands in favour of respondents 3 and 4, who are the children of the petitioner. Now the respondents 3 and 4 are in possession of the land by virtue of the said will and they are doing employment. Moreover, the original declarant, Mr.Narasimha Rao also executed a registered will on 15-6-1993 bequeathing the properties on the respondents 3 and 4. By virtue of the said wills, the first respondent

issued notice to the third and fourth respondents. After going through the contentions of the petitioner, I am not able to understand for the simple reason that when the petitioner is relying on the will deeds executed by both wife and husband on 03-7-1972 and 15-6-1993 respectively bequeathing the properties in favour of respondents 3 and 4, there is no reason as to why the petitioner should not have stated in her reply before the Land Reforms Tribunal. On the other hand, it is asserted that bequeathing the property to a third party, the petitioner does not know who is in possession of the said property. Therefore, the contention of the petitioner is contrary and moreover, the petitioner was asked to file a statement showing the particulars of lands, which are proposed to be surrendered treating her as the legal heir of late Narsimha Rao, for which she sent a reply on 25-10-2004 stating that she is only the foster daughter of the declarant late Narsimha Rao. Now again the petitioner is contesting the matter on the ground that respondents 3 and 4 who are her children succeeded the property by virtue of the aforesaid will deeds. Therefore, I am not able to accept the contentions raised in this writ petition. Once the petitioner has suppressed the execution of the aforesaid deeds by late Narasimha Rao and his wife, Sita Mahalakshmi on 03-7-1972 and 15-6-1993 respectively bequeathing the property in favour of respondents 3 and 4, she cannot turn round and rely on execution of will deeds to protect the property. The matter is pending since a long time and the first respondent passed the impugned proceedings on 30-12-2004 on the ground that the petitioner failed to submit surrender statement as required till date and therefore, the Land Reforms Tribunal has provisionally selected the lands for surrender and thus the petitioner is aware of the proceedings and if she got any

interest, she could have contested the matter before the Land Reforms Tribunal, Rajahmundry. In view of the above, when the petitioner expressed her inability and does not know the particulars of the possession of the land, the relief sought for in this writ petition cannot be granted. The writ petition fails and is liable to be dismissed.

The writ petition is accordingly dismissed at the admission stage. No costs.

JUNE 10th, 2005. ----------

I S L. ELIPE DHARMA RAO, J.

To

1 The Land Reforms Tribunal, Rajahmundry Cum Revenue Divisional

Officer, Rajahmundry, East Godavari District.
2 The Mandal Revenue Officer, Korukonda, East Godavari District.
3 Two C.Cs. to G.P. for Land Acquisition, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

4 Two CD Copies.